REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 25, 2004. Claims 1-47 are pending in the Application. The Examiner rejected Claims 1-47. Applicants have amended Claims 1, 16, 31, 46, and 47. Applicants cancel Claims 3, 18, and 33 without prejudice or disclaimer. Applicants submit that no new matter has been added with these amendments. As described below, Applicants believe all claims to be allowable over the cited references. Therefore, Applicants respectfully request reconsideration and full allowance of all pending claims.

Section 102 Rejections

The Examiner rejects Claims 1-5, 13, 14, 16-20, 28, 29, 31-35, 43, 44, and 46 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,351,467 issued Dillon ("*Dillon*").

Applicants have amended independent Claims 1, 16, and 31 to incorporate features previously recited in Claims 3, 18, and 33, respectively, which have now been cancelled. As one example, independent Claim 1, as amended, recites:

> A method for authenticated access to multicast traffic, comprising:
> receiving an Internet group management protocol request at an access network router, the request identifying a user requesting to join an IP multicast channel;
> authenticating access privileges of the user to the multicast channel; and
> disallowing the request in response to at least an unsuccessful authentication.

In the Office Action, the Examiner relied on *Dillon* for disclosure of the above-recited features. Applicants respectfully submit, however, that *Dillon* does not disclose, teach, or suggest each and every feature recited in Applicants' amended Claim 1.

For example, Applicants respectfully submit that *Dillon* does not disclose, teach, or suggest "receiving an Internet group management protocol request at an access network router, the request identifying a user requesting to join an IP multicast channel," as recited in Applicants' Claim 1. The portion of *Dillon* specifically relied on by the Examiner for disclosure of the Internet group management protocol request merely discloses that a user may "subscribe to WebCast Channels of interest," the content of which is "specified by a WebCast channel definition . . . [that] is predetermined." Thus, the portion of *Dillon* relied upon by the examiner does not disclose, teach, or suggest "an Internet group management join request," as recited in Applicants' Claim 1.

Further, Applicants respectfully submit that although *Dillon* discloses that "[w]hen launched by the user, the content viewer 58 . . . processes a user's requests to subscribe to or unsubscribe a channel" (Column 20, lines 46-49), the subscriber request disclosed in *Dillon* is not the equivalent of an Internet group management join request. In fact, *Dillon* merely discloses that "the content viewer 58 performs a subscribe or unsubscribe transaction against the multicast network." (Column 20, lines 60-63). "This is typically performed via the multicast receiver 54." (Column 20, lines 63-64). Although *Dillon* further provides that "[i]f the transaction is accepted, the content viewer 58 informs the package receiver 58 which, in turn, starts receiving or ceases reception of the channel's packages as appropriate" (Column 21, lines 2-5), *Dillon* does not disclose, teach, or suggest "receiving an Internet group management protocol request at an access network router, the request identifying a user requesting to join an IP multicast channel," as recited in Applicants' Claim 1.

For at least these reasons Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2 and 4-15, which depend from independent Claim 1.

Independent Claims 16, 31, and 46 recite certain features and operations that are substantially similar to the features of Claim 1. For example, Claim 16 recites "means for receiving an Internet group management protocol request at an access network router, the

request identifying a user requesting to join an IP multicast channel." As another example, Claim 31 recites "logic operable to receive an Internet group management protocol request for a user to join an IP multicast channel." Claim 46 recites "authenticating access privileges of a user to the IP multicast channel upon receiving an Internet group management protocol request at an access network router, the request identifying a user requesting to join an IP multicast channel to receive the premium video content." Accordingly, for reasons similar to those discussed above with regard to Claim 1, Applicants respectfully submit that *Dillon* also does not disclose, teach, or suggest each and every element recited in Applicants' Claims 16, 31, and 46. Claims 17 and 19-30 depend directly or indirectly upon Claim 16. Claims 32 and 34-45 depend directly or indirectly upon Claim 31. Thus, for the same reasons that independent Claim 1 is allowable, these dependent claims are also allowable.

Section 103 Rejections

The Examiner rejects Claims 6-12, 15, 21-27, 30, 36-42, and 45 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of *Dillon*, U.S. Patent No. 6,219,790 issued to Lloyd et al. ("*Lloyd*"), U.S. Patent No. 6,446,571 issued to Dynarski et al. ("*Dynarski*"), U.S. Patent No. 6,351,467 issued to Gupta et al. ("*Gupta*"), U.S. Patent 6,026,441 issued to Ronen ("*Ronen*"), and U.S. Patent No. 6,351,467 issued to Hooper et al. ("*Hooper*").

Claims 6-12 and 15 depend from independent Claim 1 and incorporate the features of Claim 1. Claims 21-27 and 30 depend from independent Claim 16 and incorporate the features of Claim 16. Claims 36-42, and 45 depend from independent Claim 31 and incorporate the features of Claim 31. Because Applicants have shown independent Claims 1, 16, and 31 to be allowable above, Applicants respectfully submit that dependent Claims 6-12, 15, 21-27, 30, 36-42 and 45 are allowable at least because of their dependency.

The Examiner rejects Claim 47 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of *Gupta* in view of *Ronen*.

Assuming for the purposes of argument only that the proposed combination of *Gupta* and *Ronen* discloses the features of Claim 47 (which Applicants dispute), the rejection of Claim 47 is improper at least because the Examiner has not provided evidence that one of ordinary skill in the art at the time of invention would have been motivated to make the proposed combination. The mere fact that references <u>can</u> be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills,* 916 F.2d 680 (Fed. Cir. 1990). The showing must be clear and particular. *See, e.g., C.R. Bard v. M3 Sys., Inc.,* 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998). The Examiner has not provided adequate evidence that one of ordinary skill in the art at the time of the present invention would have been motivated to modify the load-balancing system disclosed in *Gupta* to include the authentication procedures disclosed in *Ronen.* The Examiner merely speculates "it would have been obvious" to modify the load-balancing system of *Gupta* to include the teachings of *Ronen* "because by ensuring that the user is logged on and that it is a known user, it enhances security so that a third party does not try and intercept services." (Office Action, page 8). The Examiner's speculation, however, does not provide the suggestion or motivation required to make the proposed combination and instead simply relies upon hindsight.

It is improper for an Examiner to use hindsight having read the Applicants' disclosure to arrive at an obviousness rejection. *In re* Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). In particular, it is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re* Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Because the Examiner has merely used Applicants' claims as an instruction manual to piece together the load-balancing system disclosed in *Gupta* with the authentication procedures disclosed in *Ronen,* Applicants respectfully submit that the proposed *Gupta-Ronen* combination is improper and should not be used here to reject Applicants' claim.

Furthermore, Applicants respectfully submit that one of ordinary skill in the art at the time of invention would not have been motivated to make the proposed *Gupta-Ronen* combination. *Gupta* discloses a routing process for reallocating address spaces of a plurality of servers using a load balancing policy and a multicast channel. (Title). The objective as disclosed in *Gupta* is to provide a routing process by which network resources may be obtained from web servers on networks "hampered by congestion and bottlenecks." (Column 1, lines 53-56). More specifically, *Gupta* provides "a simple general purpose interface that works across a spectrum of varying user needs . . . [without] unreasonably increas[ing] the overhead for setting up and operating the multicast for users who would like to continue to set up simple open meetings." (Column 12, lines 5-10). Because open meetings are just that - open to all users of the multicast network - one of ordinary skill in the art would not have been motivated at the time of invention to combine the load balancing policy of *Gupta* with the authentication procedures disclosed in *Ronen*.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claim 47.
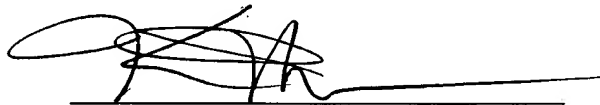
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Kevin J. Meek, Attorney for Applicants, at the Examiner's convenience at (214) 953-6680.

Applicants do not believe any fees are due. However, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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